

2002 BCSECCOM 567

Order

Jose Alberto Monterossa

Section 161 of the *Securities Act*, RSBC 1996, c. 418

Background

[para 1]

The Executive Director has entered into a Settlement Agreement with Jose Alberto Monterossa (Monterossa), a copy of which is attached as Schedule "A".

The Order

[para 2]

The Executive Director, considering it to be in the public interest to do so, orders by consent that:

1. under section 161(1)(c) of the *Securities Act*, RSBC 1996, c.418 (Act), all the exemptions described in sections 44 through 47, 74, 75, 98 and 99 of the Act will not apply to Monterossa, whether acting directly, or indirectly through another person, company or trust acting on his behalf, except for section 45(2)(7) of the Act to allow him to sell securities he currently holds through a registered dealer for his own account;
2. under section 161(1)(d) of the Act, Monterossa be prohibited from engaging in any investor relations activities for any issuer; and
3. under section 161(1)(d) of the Act, Monterossa resign from any position he holds as a director or officer of any issuer, and be prohibited from becoming or acting as a director or officer of any issuer;

until 10 years have elapsed from the date Monterossa shall have satisfied his financial obligations to all his former clients to the satisfaction of the Executive Director.

June 20, 2002

Steve Wilson
Executive Director

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Settlement Agreement

Jose Alberto Monterossa

Section 161 of the *Securities Act*, RSBC 1996, c. 418

[para 1]

The following settlement of issues has been reached between Jose Alberto Monterossa (Monterossa) and the Executive Director.

Agreed Statement of Facts

[para 2]

As the basis for the order and undertakings referred to below, Monterossa acknowledges the following facts as correct:

1. Monterossa is resident in Vancouver, B.C. and was registered under the *Securities Act*, RSBC 1996, c. 418 (the Act) from March 23, 1995 to October 19, 2001 to sell mutual funds through PFSL Investments Canada Ltd. (PFSL) in British Columbia.
2. Between January, 1999 and September, 2001 Monterossa borrowed approximately \$73,000 from 25 of his clients at PFSL.
3. Monterossa borrowed the money to help support family members in El Salvador and to assist himself in meeting his monthly expenses. Monterossa originally intended to pay back the loans through an anticipated income increase at PFSL, but that income increase did not materialize.
4. On July 5, 2000 PFSL received a complaint from one of Monterossa's clients about a personal loan to Monterossa. On July 6, 2000, the client issued a letter to PFSL stating that two months prior he had lent Monterossa \$2,800 to assist a relative of Monterossa's in El Salvador, but as of that morning the loan had been fully repaid. On July 10, 2000, Monterossa issued a letter to PFSL (the Admission Letter) stating that he fully understood the prohibition against borrowing money from a client, and acknowledged his obligation to act in a manner that is in a client's best interest. Further, Monterossa stated in the Admission Letter that he had never borrowed money from any other client, and that he would never do so in the future.

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5. Monterossa's Admission Letter was untrue in several ways. As of July 10, 2000 Monterossa had actually borrowed money from 11 clients other than the client referred to in the Admission Letter. Further, as early as three weeks after the Admission Letter Monterossa began borrowing money from other clients.
6. By borrowing money from his clients, Monterossa failed to deal fairly, honestly, and in good faith with his clients, contrary to section 14(1) of the *Securities Rules*, BC Reg. 194/97 (the Rules).
7. Monterossa is insolvent and unable to repay his clients the funds that he borrowed from them.
8. The Executive Director is satisfied that Monterossa is insolvent and unable to make a payment to the Commission; otherwise, the Executive Director would have sought a payment of \$10,000 from Monterossa.

Mitigating Factors

[Para 3]

The Executive Director has taken into account the following facts as factors mitigating the sanctions which would otherwise have applied in the public interest:

1. Monterossa has no previous disciplinary history with the Commission.
2. Monterossa cooperated with staff of the Commission in the course of this investigation.
3. Of the approximately \$73,000 Monterossa borrowed, he repaid seven of his clients the full amount he borrowed from them totaling approximately \$20,460. Monterossa has also repaid a portion of the total amount he borrowed from six other clients totaling approximately \$9,350.

Undertakings

[Para 4]

Monterossa undertakes to:

1. repay back all outstanding monies borrowed from all his former clients to the satisfaction of the Executive Director;
2. refrain from applying for registration under the Act for a period of 10 years from the date Monterossa satisfied his financial obligations to all his former clients;

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3. comply with the Act and the Rules and all applicable regulations, policies and guidelines from the date of this agreement.

Order

[Para 5]

Monterossa consents to an order by the Executive Director (the Order) that:

4. under section 161(1)(c) of the Act, all the exemptions described in sections 44 through 47, 74, 75, 98 and 99 of the Act will not apply to Monterossa, whether acting directly, or indirectly through another person, company or trust acting on his behalf, except for section 45(2)(7) of the Act to allow him to sell securities he currently holds through a registered dealer for his own account;
5. under section 161(1)(d) of the Act, Monterossa be prohibited from engaging in any investor relations activities for any issuer; and
6. under section 161(1)(d) of the Act, Monterossa resign from any position he holds as a director or officer of any issuer, and be prohibited from becoming or acting as a director or officer of any issuer;

until 10 years have elapsed from the date Monterossa shall have satisfied his financial obligations to all his former clients to the satisfaction of the Executive Director.

Waiver

[para 6]

Monterossa waives any right he may have, under the Act or otherwise, to a hearing, hearing and review, judicial review or appeal related to, in connection with, or incidental to this Agreement.

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June 18, 2002

_____)
Jose Alberto Monterossa)
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_____)
Witness Signature)
)
Steve Plummer)
Witness Name (Please Print))
)
701 W. Georgia St., Vcr., BC)
Address)
)
Mgr Compliance, BCSC)
Occupation)

June 20, 2002

Steve Wilson
Executive Director